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**IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN MARIANA ISLANDS**

RANDALL T. FENNELL,

CIVIL CASE NO. CV 09-0019

Plaintiff,

vs.

**REQUEST FOR JUDICIAL NOTICE
PURSUANT TO FEDERAL RULES OF
EVIDENCE 201**

MATTHEW T. GREGORY, former Attorney General, GREGORY BAKA, Acting Attorney General, ANTHONY WELCH, Assistant Attorney General, TOM J. SCHWEIGER, Assistant Attorney General, and DOES 1-20, in their official and individual capacities.

Defendants.

1 Pursuant to Federal Rules of Evidence 201, the Bank of Saipan, Inc. requests that the
2 Court take judicial notice of the accompanying attached pleadings filed in below referenced
3 actions in this Court and in the CNMI Supreme and Superior Courts in support of the Bank's
4 Motion to Intervene and Bank's Motion to Dismiss; or in the Alternative, to Stay:
5

6 1. Attached hereto as **Exhibit 1** is a true and correct copy of the First Amended
7 Complaint and Demand for Jury Trial filed on November 18, 2004 in *The Bank of Saipan v.*
8 *Randall T. Fennell, et al.*; Civil Action No. 04-449A ("Fennell Action") in the Superior Court
9 for the Commonwealth of the Northern Mariana Islands.

10 2. Attached hereto as **Exhibit 2** is a true and correct copy of Former Temporary
11 Receiver Randall T. Fennell's Petition for Certification Pursuant To P.L.15-22 filed on January
12 9, 2009 in the Fennell Action.
13

14 3. Attached hereto as **Exhibit 3** is a true and correct copy of Former Temporary
15 Receiver Randall T. Fennell's Response to the Bank of Saipan's Reply to His Comments on
16 Request for Scheduling Conference filed January 9, 2009 in the Fennell Action.

17 4. Attached hereto as **Exhibit 4** is a true and correct copy of The Bank of Saipan's
18 Response to Randall Fennell's Petition Under P.L. 15-22 and Renewed Request for a
19 Threshold Hearing filed on January 21, 2009 in the Fennell Action.
20

21 5. Attached hereto as **Exhibit 5** is a true and correct copy of the Threshold Motion
22 in Request for Hearing on Issue of Immunity filed on September 26, 2005 in the Fennell
23 Action.
24

25 6. Attached hereto as **Exhibit 6** is a true and correct copy of the Declaration of
26 Rodney J. Jacob in Support of Threshold Motion and Request for Hearing on Issue of
27 Immunity filed on September 26, 2005 in the Fennell Action.
28

1 7. Attached hereto as **Exhibit 7** is a true and correct copy of the Addendum to
2 Memorandum of Points and Authorities in Support of Threshold Motion and Request for
3 Hearing on Issue of Immunity filed on October 6, 2005 in the Fennell Action.

4 8. Attached hereto as **Exhibit 8** is a true and correct copy of the Declaration of
5 Rodney J. Jacob in Support of Addendum to Threshold Motion and Request for Hearing on
6 Issue of Immunity filed on October 6, 2005 in the Fennell Action.

7 9. Attached hereto as **Exhibit 9** is a true and correct copy of the Opposition to So-
8 Called “Threshold Motion” and Request for Hearing on Immunity Issue filed on October 21,
9 2005 in the Fennell Action.

10 10. Attached hereto as **Exhibit 10** is a true and correct copy of the Defendants
11 David Axelrod and Schwabe, Williamson & Wyatt’s Opposition to Bank Directors’ Threshold
12 Motion and Request for Hearing on Issue of Immunity filed on October 21, 2005 in the
13 Fennell Action.

14 11. Attached hereto as **Exhibit 11** is a true and correct copy of the Defendants
15 David Axelrod and Schwabe, Williamson & Wyatt’s Objection to Evidence filed and
16 Referenced in Support of the Bank Directors of Saipan’s Threshold Motion and Request for
17 Hearing on Issue of Immunity filed on October 21, 2005 in the Fennell Action.

18 12. Attached hereto as **Exhibit 12** is a true and correct copy of Richard W. Pierce’s
19 Joinder in the Oppositions to Plaintiff’s Threshold Motion for Setting Hearing Date for
20 Immunity filed on October 21, 2005 in the Fennell Action.

21 13. Attached hereto as **Exhibit 13** is a true and correct copy of the Joinder in
22 Axelrod and Schwabe’s Objection to Evidence Filed in Support of Directors So-Called
23 Threshold Motion filed on November 3, 2005 in the Fennell Action.

1 14. Attached hereto as **Exhibit 14** is a true and correct copy of the Objection to
2 Evidence Filed in Support of Directors' So-Called Threshold Motion filed on November 3,
3 2005 in the Fennell Action.

4 15. Attached hereto as **Exhibit 15** is a true and correct copy of the Superseding
5 Indictment filed August 14, 2002 in the *United States of America v. Bert Douglas*
6 *Montgomery, et al.*; Criminal Case No. 02-00010 ("Criminal Action") in the United States
7 District Court for the Northern Mariana Islands.

8 16. Attached hereto as **Exhibit 16** is a true and correct copy of the Order Denying
9 Motion of Defendant Montgomery to be Re-Sentenced filed on January 5, 2007 in the
10 Criminal Action.

11 17. Attached hereto as **Exhibit 17** are a true and correct copies of the December 8,
12 2005 letters to the Honorable Robert C. Naraja from Randall T. Fennell re: Payment of
13 Defense of Former Receiver in Bank of Saipan Lawsuit Reconsidered and Payment of Defense
14 and Indemnification of Former Receiver in MPLA Lawsuit which are selected exhibits
15 attached to Tab 7 of the Renewed Request by the Bank of Saipan for Certification to the Chief
16 Justice of the Supreme Court for Appointment of Pro Tem Judge filed on September 8, 2008 in
17 the Fennell Action.

18 18. Attached hereto as **Exhibit 18** is a true and correct copy of the Order
19 Appointing Judge Pro Tem filed on September 25, 2008 in the Fennell Action.

20 19. Attached hereto as **Exhibit 19** is a true and correct copy of the Order Granting
21 Motion to Disqualify Justice Alejandro C. Castro decided on August 16, 2002 in the *Bank of*
22 *Saipan v. Superior Court*; Civil Action No. 02-0002-OA in the Supreme Court of the
23 Commonwealth of the Northern Mariana Islands.

1 20. Attached hereto as **Exhibit 20** is a true and correct copy of the Renewed
2 Indemnification Claim of Randall T. Fennell filed on August 1, 2006 *Acting Secretary of*
3 *Commerce Fermin M. Atalig v. Bank of Saipan*; Civil Case No. 02-0268B (“Receivership
4 Action”), which attached Indemnification Claim of Randall T. Fennell filed on October 18,
5 2005.

6 21. Attached hereto as **Exhibit 21** is a true and correct copy of the Bank of Saipan
7 Report and Rehabilitation Plan filed on January 29, 2003 in the Receivership Action.

8 22. Attached hereto as **Exhibit 22** is a true and correct copy of the Order
9 Approving Directors of the Bank of Saipan, Inc.’s Rehabilitation Plain filed on February 13,
10 2003 in the Receivership Action.

11 23. Attached hereto as **Exhibit 23** is a true and correct copy of the Order re:
12 Petition for Judicial Review filed on April 6, 2005 in *The Bank of Saipan v. Fermin M. Atalig*;
13 Civil Action No. 02-0376E in the Superior Court for the Commonwealth of the Northern
14 Mariana Islands.

15 24. Attached hereto as **Exhibit 24** is a true and correct copy of the Order Granting
16 Plaintiff’s Motion for Summary Judgment filed on November 27, 2007 in *Bank of Saipan v.*
17 *Bert Douglas Montgomery, et al.*; Civil Action No. 04-0088C in the Superior Court for the
18 Commonwealth of the Northern Mariana Islands.

19 25. Attached hereto as **Exhibit 25** is a true and correct copy of the Order
20 Terminating Receivership filed on August 11, 2006 in the Receivership Action.

21 26. Attached hereto as **Exhibit 26** is a true and correct copy of the Final
22 Accounting by Receiver filed on October 12, 2005 in the Receivership Action.

23 27. Attached hereto as **Exhibit 27** is a true and correct copy of an Order Vacating
24 the October 14th “Spending Cap Order” filed on May 24, 2006 in *The Bank of Saipan v.*
25

Camacho; Appeal No. 05-0025-GA in the Supreme Court of the Commonwealth of the Northern Mariana Islands.

28. Attached hereto as **Exhibit 28** is a true and correct copy of the Docket Sheet obtained from the CNMI Superior Court and Lexis Nexis website in the Fennell Action.¹

Respectfully submitted this 28th day of August, 2009.

**LAW OFFICE OF WILLIAM FITZGERALD
CALVO & CLARK, LLP**
*Attorneys for Bank of Saipan, Inc.,
Defendant Intervenors*

By: _____ /s/
William M. Fitzgerald

¹ Due to the unavailability of the CNMI Superior Clerk responsible for certifying case dockets, counsel for the Bank was unable to provide a certified copy at the time this request is being submitted. The Bank will submit a certified copy of the docket sheet in the Fennell Action as soon as it is able to do so.